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March 14, 2022

VIA ECF

Honorable J. Paul Oetken
United States District Judge
Southern District of New York
United States Courthouse
40 Foley Square
New York, NY 10007

Re: *United States v. Andrey Kukushkin, et al.*,
S3 19-CR-00725 (JPO)

Dear Judge Oetken:

We write in advance of Mr. Kukushkin's sentencing, currently scheduled for tomorrow, March 15, 2022, at 11:00 a.m., to provide the Court with an alternative sentencing proposal that was prepared by the Aleph Institute, a nonprofit organization, that is working with Mr. Kukushkin on a pro bono basis. We just received it yesterday.

Aleph was founded in 1981 at the suggestion of the late Jack B. Weinstein, United States District Judge, Eastern District of New York. Among other things, the program works with courts nationally, as well as law makers and prison officials, on the productive use of alternatives to incarceration. As such the organization has a depth and breadth of knowledge of sentencing goals and processes generally, both from the perspective of the court and from that of the government. It also has a firm insight into the Bureau of Prisons.

Working with Mr. Kukushkin they have developed a community service and counseling program that in our view addresses and balances the goals of deterrence, punishment, and rehabilitation. As Aleph's letter provides, the proposal includes working to assist with local and worldwide humanitarian relief efforts as a result of the war in Ukraine and one-on-one counseling regarding business/legal ethics. In our view, the sentencing alternative proposed is one that is sufficient but not greater than necessary to comply with the purposes set forth in 18 U.S.C. § 3553, and will allow Mr. Kukushkin to continue to be the critical hands-on support that his family and his community need during this time of immense crisis.

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We thank the Court for its consideration.

Respectfully submitted,

/s/ Gerald B. Lefcourt
Gerald B. Lefcourt

cc: All counsel (via ECF)



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March 13, 2022

Honorable J. Paul Oetken
 United States District Court
 Southern District of New York
 40 Foley Square
 New York, NY 10007

Re: SENTENCING: *United States v. Andrey Kukushkin*
 Case No. 19-cr-00725-JPO-4

Dear Judge Oetken,

I write on behalf of the Aleph Institute (“Aleph”), with respect and deference to the Court, regarding the sentencing of Andrey Kukushkin. We are grateful for your consideration of this submission.

Aleph was founded in 1981 at the suggestion of the late District Court Judge Jack Weinstein. Aleph is a nonprofit organization which has provided pro bono support and rehabilitation for nearly four decades to thousands of individuals enmeshed in the criminal justice system. Working closely with courts nationwide, as well as federal and state lawmakers and prison officials, our advocacy promotes the increased use of alternatives to incarceration.



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We respectfully request that the Court consider an alternative sentence that we have developed for Andrey. As described below, the proposed alternative sentence consists of rigorous community service and spiritual counseling consistent with the principles of *Teshuvah*, a “return to the essential purity of the soul. Judaism teaches that every human being is born with a spark of the Divine Presence, from which they become separated by wrongful actions. Only through repentance and atonement can one be on the path to true rehabilitation.

We have designed Andrey’s sentence to be rehabilitative. We believe it will help him to reflect on others who are suffering and yet lead honest lives to the best of their abilities.

His compliance with program rules would be closely monitored by Aleph, and he would be required to meet performance goals. During this time, Aleph would be willing to provide regular and detailed progress reports to the court.

- 1. Spiritual Counseling.** Andrey will attend weekly one-on-one counseling sessions with his local Rabbi (Rabbi Pil [REDACTED]). They will discuss business/legal ethical obligations and the need to maintain the integrity of the laws of our country.
- 2. Ukrainian Refugees.** Andrey will volunteer 28 hour per week to assist with the Ukrainian refugee crisis:
 - There is much confusion and constant change due to the chaos. People don’t know which border country would be willing to accept them or how long it will take to get there. Andrey is in constant touch with people with this information, and is translating this as live updates for the fleeing refugees.
 - Andrey is connected with many people throughout various European countries. He is networking to secure shelter areas that can receive more of the refugees.



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- Andrey is aware of Ukrainians who are in need of specific resources. He is raising funds and managing the logistics of sending those items.

3. Jewish Russian Community Center. Andrey joined the JRCC volunteer team. Andrey speaks fluent Russian, Ukrainian, and English. He is the perfect candidate to assist refugees with filling out visa applications and other necessary documentation to obtain legal status.

Andrey will help the JRCC maintain contact with community centers in Poland, Slovakia, Hungary, România, Moldova, Germany, Austria, and France to see how they can be of service to help save as many lives as possible and contribute significantly to this humanitarian relief.

JRCC Supervisor: Jenny Shigorina [REDACTED]

Andrey will continue to have constraints placed on him in the form of these community service obligations. While he has no doubt gained, and will continue to gain, valuable experience from the community service that we outline, it will also impose a substantial burden on his life.

While not a formal element of our proposal, it cannot be denied that Andrey has already experienced shame and humiliation because of his arrest and conviction. His shame is magnified because of the reputation that he held in his community prior to his arrest. In his book of laws, Maimonides emphasizes the power that shame has to transform a person's behavior, and as such we believe that shame suffered by an individual should not be undervalued or unappreciated.

In Aleph's experience with defendants like Andrey, community-based rehabilitation is far more effective at restoring the individual's commitment to ethical behavior than any period of incarceration. It will allow Andrey to return to a stronger commitment to his faith and practice, which includes strict adherence to the Laws of the Land.

The same characteristics that have made Andrey so steadfast in his commitment to his own family and community will ensure his efforts have a strong positive impact for



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those whom he interacts with in his capacity as a volunteer under the terms of this community service proposal. We hope that he will be able to reach his own full potential as he rehabilitates himself through hard work in the community and that, in the process, he will push others to reach their full potential as well.

Your Honor, the mitigating circumstances of Andrey's case are compelling. We are aware that this Court has wide-ranging discretion to consider any or all of Andrey's unique circumstances as a basis for sentencing, and we respectfully submit that our recommendation will adequately protect society while addressing the specific needs of Andrey's rehabilitation. It would also effectuate the purposes of, and be consistent with, the sentencing goals enumerated in 18 U.S.C. § 3553(a), and would offer all the benefits underlying a sound corrections policy—while avoiding additional and unnecessary harmful consequences to Andrey's family. Aleph stands ready to remain involved as the Court sees fit and we have a deep desire to support Andrey through this rehabilitative process.

With the utmost respect and admiration for Your Honor's wise and compassionate decisions, I pray that this submission will produce good results for society and for Mr. Kukushkin.

Respectfully submitted,

/s/ Yossi Bryski

Rabbi Yossi Bryski
Director of Alternative Sentencing
The Aleph Institute